

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 00-2538

Dianne K. Mooney,

Appellant,

v.

Larry Massanari, Acting
Commissioner, Social Security
Administration,

Appellee.

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Appeal from the United States
District Court for the District
of Nebraska.

[UNPUBLISHED]

Submitted: May 18, 2001

Filed: May 24, 2001

Before LOKEN, ROSS, and FAGG, Circuit Judges.

PER CURIAM.

Dianne K. Mooney sought disability insurance benefits under Title II of the Social Security Act, 42 U.S.C. §§ 401-433, claiming neurofibromatosis disabled her. An administrative law judge (ALJ) denied benefits, holding Mooney's 1987 employment constituted substantial gainful activity precluding her from meeting the disability requirements rather than an unsuccessful work attempt as Mooney alleged.

Mooney sought judicial review, and the district court* concluded substantial evidence supported the ALJ's decision. On appeal, Mooney argues her 1987 employment was an unsuccessful work attempt rather than substantial gainful activity and the district court committed error in disallowing evidence of her disability. Having carefully reviewed the record, we agree with the district court's analysis. The district court observed that Mooney worked continually from January 1987 to October 1987 at a nursing home, and until November 1987 as a flag person for a highway construction contractor. Although Mooney had difficulty performing her work because of her medical condition, work lasting more than six months cannot be considered an unsuccessful work attempt. See King v. Chater, 72 F.3d 85, 87 (8th Cir. 1995); Nettles v. Sullivan, 956 F.2d 820, 822-23 (8th Cir. 1992). Because substantial evidence supported the ALJ's decision, we affirm on the basis of the district court's memorandum and order.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

*The Honorable Richard G. Kopf, Chief Judge, United States District Court for the District of Nebraska.